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SIPDIS

FROM U.S. MISSION IN ROME

STATE FOR IO AND AFGHANISTAN DESK

USAID FOR DCHA/AA, DCHA/OFDA, ANE/AA, ANE/ESA AND GC
USUN FOR LEGAL OFFICE AND POL

E.O. 12958: N/A

TAGS: [EAID](#) [AF](#) [IDLI](#) [AF](#) [EAID](#) [IDLI](#) [AFGHANISTAN](#)

SUBJECT: INTERNATIONAL DEVELOPMENT LAW INSTITUTE (IDLI)
UNCLASSIFIED

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PROPOSAL TO SUPPORT LEGAL REFORM IN AFGHANISTAN

REF: A. 01 ROME 6330 B. ROME 1544

SUMMARY

1. U.S. MISSION REPRESENTATIVES MET WITH STAFF OF THE ROME-BASED INTERNATIONAL DEVELOPMENT LAW INSTITUTE (IDLI) ON MARCH 27 TO DISCUSS IDLI'S PROPOSED LEGAL REFORM INITIATIVE IN AFGHANISTAN. IDLI ADVISED U.S. MISSION OF ITS ONGOING EFFORTS TO DEVELOP A COMPREHENSIVE DATABASE ON AFGHAN LAW, A COMPARATIVE ANALYSIS OF PRIOR LEGAL SYSTEMS AND A ROSTER OF AFGHAN LAW EXPERTS. IDLI STAFF BRIEFED U.S. MISSION ON PROPOSED ACTIVITIES IN AFGHANISTAN WHICH INCLUDE ASSISTANCE IN DEVELOPING A NEW CONSTITUTION AND A NEW LEGAL FRAMEWORK AND THE TRAINING OF NEW JUSTICE SECTOR PERSONNEL. IDLI STAFF ADVISED THAT THE GOVERNMENT OF ITALY IS VERY INTERESTED IN PROVIDING SUPPORT TO THE JUSTICE SECTOR IN AFGHANISTAN, ALTHOUGH NO FIRM COMMITMENT HAS BEEN MADE TO DATE. END SUMMARY.

2. US MISSION HUMANITARIAN AFFAIRS ATTACHE, TIM LAVELLE, AND PROGRAM SPECIALIST JANE STANLEY MET WITH WILLIAM LORIS, DIRECTOR OF THE INTERNATIONAL DEVELOPMENT LAW INSTITUTE (IDLI) AT IDLI'S ROME HEADQUARTERS ON MARCH 27, 2002. IDLI IS A PUBLIC INTERNATIONAL ORGANIZATION WHOSE MANDATE IS TO "PROMOTE THE USE OF LEGAL RESOURCES IN THE DEVELOPMENT PROCESS IN DEVELOPING AND TRANSITION ECONOMY COUNTRIES." THE PURPOSE OF THIS MEETING WAS TO DISCUSS IDLI'S PROPOSED
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PROGRAM IN AFGHANISTAN.

3. LORIS AND HIS STAFF EXPLAINED THAT IDLI BEGAN TO DEVELOP ITS PROPOSED LEGAL REFORM INITIATIVE FOR AFGHANISTAN SHORTLY AFTER SEPTEMBER 11. TO DATE, THEY HAVE PUT TOGETHER AN EXTENSIVE DATABASE ON AFGHAN LAW IN FORCE FROM 1900 TO THE PRESENT DAY IN ENGLISH, PASHTU AND DARI AND DEVELOPED A COMPARATIVE ANALYSIS OF PRIOR LEGAL SYSTEMS. IDLI STAFF STATED THEIR RESEARCH HAS DEMONSTRATED THAT AFGHANISTAN POSSESSES AN ELABORATE AND SOPHISTICATED LEGAL TRADITION. THE PROBLEM IS THAT MOST LAWYERS HAVE LEFT THE COUNTRY. TO ADDRESS THIS CONCERN, IDLI HAS ALSO DEVELOPED A ROSTER OF QUALIFIED EXPERTS AND SCHOLARS ON AFGHAN LAW THAT CAN READILY BE MADE AVAILABLE TO ASSIST AFGHAN AUTHORITIES IN REBUILDING THE COUNTRY'S LEGAL FRAMEWORK.

4. IDLI PROVIDED U.S. MISSION REPS WITH A CONCEPT PAPER FOR A PROPOSED IDLI AFGHANISTAN INITIATIVE. THE PURPOSE OF THIS INITIATIVE IS TO "ASSIST THE AFGHAN AUTHORITIES TO RESTORE THE RULE OF LAW THROUGH LEGAL TECHNICAL ASSISTANCE, TRAINING AND CAPACITY BUILDING TO ALLOW AFGHANISTAN'S TRANSITION TO A MODERN DEMOCRATIC STATE IN ACCORDANCE WITH ISLAMIC PRINCIPLES, INTERNATIONAL STANDARDS, THE PRINCIPLE OF LEGALITY AND AFGHAN LEGAL TRADITIONS."

5. THROUGH THIS INITIATIVE, IDLI PROPOSES TO HELP THE TWO COMMISSIONS ESTABLISHED UNDER THE BONN AGREEMENT TO HELP THE AFGHAN INTERIM AUTHORITY (AIA) REBUILD A LEGAL FRAMEWORK FOR AFGHANISTAN--THE CONSTITUTIONAL COMMISSION, WHOSE MANDATE IS TO PRODUCE A NEW CONSTITUTION, AND THE JUDICIAL COMMISSION, CHARGED WITH RE-ESTABLISHING THE JUDICIARY AND THE REMAINDER
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OF AFGHANISTAN'S LEGAL FRAMEWORK.

6. SPECIFICALLY IDLI PROPOSES TO:

--ASSIST THE AIA BY IDENTIFYING LAWS THAT ARE IMMEDIATELY APPLICABLE, IN COMPLIANCE WITH BONN AGREEMENT PRINCIPLES; IDENTIFYING CHANGES THAT NEED TO BE MADE TO OTHER LAWS AND REGULATIONS AND DEVELOPING A STRATEGY FOR REBUILDING THE JUSTICE SYSTEM.

-- ASSIST THE NEW JUDICIAL COMMISSION BY PROVIDING TRAINING AND TECHNICAL ASSISTANCE TO NEWLY APPOINTED JUSTICE PERSONNEL; CONSULTING ON THE APPLICABILITY OF PRIOR LAWS ON THE JUDICIARY AND JUDICIAL PROCEDURES; IDENTIFY ALTERNATIVE OPTIONS FOR JUDICIAL STRUCTURES; AND ADVISING ON OTHER LAWS REQUIRED TO ESTABLISH A COMPLETE LEGAL FRAMEWORK.

-- ASSIST THE CONSTITUTIONAL COMMISSION IN DEVELOPING A NEW CONSTITUTION BY PROVIDING COMPARATIVE ANALYSES OF DIFFERENT MODELS; ANALYZING VARIOUS OPTIONS; AND PROVIDING THE EXPERTISE OF LEGAL PROFESSIONALS AND SCHOLARS FROM COUNTRIES WITH LEGAL AND CULTURAL TRADITIONS SIMILAR TO THOSE OF AFGHANISTAN.

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ACTION IO-00

INFO	LOG-00	NP-00	AID-00	AMAD-00	CIAE-00	COME-00	CTME-00
	DODE-00	ITCE-00	SRPP-00	EB-00	EXME-00	EUR-00	UTED-00
	TEDE-00	INR-00	ITC-01	L-00	NEA-00	NSAE-00	OIC-02
	OMB-01	OPIC-01	SS-00	STR-00	TEST-00	TRSE-00	SA-00
	SAS-00	/005W					

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R 291848Z MAR 02
FM AMEMBASSY ROME
TO SECSTATE WASHDC 3033
AMEMBASSY KABUL
AMEMBASSY ISLAMABAD
USEU BRUSSELS 2613
USMISSION GENEVA
USMISSION USUN NEW YORK

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PROPOSAL TO SUPPORT LEGAL REFORM IN AFGHANISTAN

-- ASSIST AFGHAN AUTHORITIES IN CREATING LEGAL AND JUDICIAL TRAINING CENTERS.

17. IDLI IS CURRENTLY SOLICITING DONOR SUPPORT FOR ITS PROPOSAL AND INFORMED U.S. MISSION THAT THE GOVERNMENT OF ITALY HAS EXPRESSED INTEREST IN TAKING A LEAD ROLE IN REBUILDING THE JUDICIAL SECTOR IN AFGHANISTAN, ALTHO UGH THERE HAS BEEN NO FIRM COMMITMENT TO DATE. IDLI INDICATED THAT, ONCE FUNDING IS RECEIVED, IT WILL BE ABLE TO MOBILIZE IMMEDIATELY.

COMMENT

18. IDLI IS CURRENTLY A SMALL INSTITUTE THAT, SINCE ITS INCEPTION IN 1983, HAS CONDUCTED MANY VALUABLE LEGAL TRAINING PROGRAMS IN DEVELOPING COUNTRIES. PER REF B, IT IS SEEKING TO EXPAND ITS MANDATE AND THERE IS CONCERN THAT THIS EXPANSION MAY BE A LITTLE TOO AMBITIOUS. A RECENT USAID/WASHINGTON TDY REVIEW OF IDLI'S SOUTH EAST LEGAL DEVELOPMENT INITIATIVE (SEDLI) IN STABILITY PACT COUNTRIES INDICATED THAT IDLI WAS EXPERIENCING GROWING PAINS IN MOVING FROM DEVELOPING METHODOLOGY AND CONDUCTING SURVEYS AND CONFERENCES TO ACTUAL PROGRAM IMPLEMENTATION WHERE RESULTS OF SURVEYS AND CONFERENCES ARE UTILIZED.

19. KABUL-MINIMIZE CONSIDERED. HEILEMAN
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